THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 27080 of 2007

Date:21-08-2007

Between:

Vadla Anjaneyulu and another .... **PETITIONER**

AND

The SHO PS Yellareddy and another

..

RESPONDENTS

ORDER:

The petitioners seek to issue a writ of mandamus to declare

the action of the 1st respondent in registering the Crime No.176 of 2006 on a false complaint of the 2nd respondent, as illegal and arbitrary.

It is the case of the first petitioner that he is a permanent resident of Annasagar, Yellareddy mandal, Nizamabad District and is working as para teacher in Government School, Annasagar. The second petitioner is the daughter of the second respondent. While the second petitioner was studying intermediate second year at Bharatratna Junior College, Banswada, she fell in love with the first petitioner and their marriage was performed in a temple of Mutyalamma, Bhudevi Nagar, Alwal, Secunderabad in the presence of friends and at present they are living together. It is stated that the second respondent who is the father of the second petitioner gave a complaint, dated 11.12.2006 alleging that the first petitioner kidnapped the second petitioner and based on that complaint, a case in Crime No.176 of 2006 under Section 366-A IPC was registered by the first respondent.

A counter has been filed by the first respondent stating that on a complaint lodged by the second respondent, a case in Crime No.176 of 2006 was registered under Section 366-A IPC and during the course of investigation, it is revealed that the second petitioner is aged 16 years 9 months and she is studying senior intermediate in Banswada College and therefore, the evidence collected so far goes to show that the first petitioner committed an offence punishable under Section 366-A IPC.

It is further stated that when the second petitioner herself joined the first petitioner and seeks to issue a writ of mandamus to

declare the said F.I.R. as illegal alleging that the first petitioner never kidnapped her and though the second petitioner has not attained the age of 18 years, she voluntarily agreed for her marriage and married the first petitioner and they are leading a marital life. it was not at all a kidnap. It is further stated that as per the Division Bench judgment of this Court in W.P.Nos.23910 & 24690 of 2005, dated 01.02.2006 even the wife is a minor, as per the Hindu Minority and Guardianship Act, the husband becomes a natural guardian, though such marriage may attract certain penal provisions. Thus, it is the case of the petitioners that there was no truth in the allegations made in the complaint by the second respondent alleging that the first petitioner kidnapped the second petitioner.

I am of the opinion that whether there was any kidnap or not, in view of the aforesaid sworn statement of both the petitioners that there was no kidnap, it is just and proper for the police to complete the investigation by examining both the petitioners, if necessary by recording their statements under Section 164 Cr.P.C. before the concerned Magistrate and take appropriate action in the pending crime, but however, without harassing and without arresting the petitioners. As per the aforesaid judgment of the Division Bench of this Court, if any penal provisions attract, it is always open for the investigating agency to take appropriate action against the petitioners.

With the above observations, the writ petition is disposed of. No costs.

V.ESWARAIAH, J.

Date:21.08.2007.
Ccm